

96700/451

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Bruce D. Gaynor, et al.
Serial No. : 08/833,838
Filed : April 10, 1997
For : PEPTIDES FOR THE TREATMENT AND DIAGNOSIS OF LUPUS
ERYTHEMATOSUS
Examiner : Not Assigned
Group Art Unit : Not Assigned



#4

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Date of Deposit: September 17, 1999

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

Name: Sharon Kelly

Signature: Sharon Kelly

COMMUNICATION REQUESTING WITHDRAWAL
OF ERRONEOUSLY ISSUED NOTICE OF ABANDONMENT

Assistant Commissioner for Patents
Washington, D.C. 20231

Attn: Office of Petitions

Sir:

Applicants hereby submit this Communication Requesting Withdrawal of the Notice of Abandonment that was erroneously issued by the U.S. Patent Office on October 6, 1998. In this regard, enclosed please find copies of the following:

(a) the Communication in Response to the Notice to File Missing Parts timely filed with the Patent and Trademark Office on December 3, 1997, including a copy of the October 6, 1997 Notice to File Missing Parts; an executed Declaration and



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Power of Attorney; a check in the amount of \$953.00 to cover the \$65.00 surcharge fee, the \$385.00 filing fee, and the \$503.00 claims fee, all for a small entity; a First Class Mailing Certificate; and a return receipt postcard (Exhibit A);

(b) the stamped postcard receipt indicating the timely receipt by the U.S. Patent Office of the Communication in Response to the Notice to File Missing Parts (Exhibit B);

(c) a Notice of Abandonment dated October 6, 1998 (Exhibit C); and

(d) a Communication Requesting Withdrawal of the Erroneously Issued Notice of Abandonment filed with the U.S. Patent Office on January 4, 1999 (Exhibit D).

The circumstances surrounding the erroneous abandonment of the subject application are as follows. On October 6, 1997, the Patent Office issued a Notice to File Missing Parts of Application in connection with the subject application. On December 3, 1997, Applicants timely filed a Communication in Response to the Notice of Missing Parts (Exhibit A), including a copy of the October 6, 1997 Notice to File Missing Parts; an executed Declaration and Power of Attorney; a check in the amount of \$953.00 to cover the \$65.00 surcharge fee, the \$385.00 filing fee, and the \$503.00 claims fee, all for a small entity; a First Class Mailing Certificate; and a return receipt postcard. Applicants' attorneys received the stamped postcard receipt indicating timely receipt of the Communication by the U.S. Patent Office (Exhibit B).

The first page caption of the Communication in Response to the Notice to File Missing Parts correctly identified the (i) Applicants, (ii) filing date, and (iii) title of the Application. However, there was an inadvertent typographical error in the first page

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caption of the Communication which incorrectly identified the Application Number of the parent application to the subject application, namely Application No. 08/531,832. As a result, the U.S. Patent Office failed to match the Communication in Response to the Notice of Missing Parts with the file of the subject application, and erroneously issued a Notice of Abandonment (Exhibit C) in connection with the subject application on October 6, 1998.

The error was compounded when on January 4, 1999, Applicants submitted a Communication to Withdraw the Erroneously Issued Notice of Abandonment (Exhibit D) which again correctly identified the Applicants, filing date and title in the first page caption but incorrectly identified the Application Number. The Communication to Withdraw the Erroneously Issued Notice of Abandonment included a copy of the Notice of Abandonment and the stamped return receipt postcard indicating timely receipt by the U.S. Patent Office of the Communication in Response to the Notice to File Missing Parts.

The typographical error was subsequently discovered by the Applicants when Applicants received a Communication from the Patent Office in connection with the parent application, namely Application No. 08/531,832, which stated "[a]fter careful review of evidence submitted, it was noted that the abandonment belongs to another application that the applicant has filed. The Notice of Abandonment letter indicates serial number 08/833,838 which the Notice of Abandonment is for that application."

Hence, it is apparent that the Communication in Response to the Notice of

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Missing Parts and the subsequent Communication Requesting Withdrawal of the Erroneously Issued Notice of Abandonment were not matched up with the subject application file due to a typographical error in the first page caption of both Communications. However, Applicants respectfully note that the first page caption of both Communications correctly identified the Applicants, the filing date, and the title of the subject application. Further, the Communication in Response to the Notice of Missing Parts enclosed a copy of the Notice to File Missing Parts issued in connection with the subject application, as well as a signed Declaration and Power correctly identifying the Applicants, the filing date, the title, and the Application Number for the subject application. Therefore, there were ample identifiers connecting both Communications with the subject application. Hence, the Communication in Response to the Notice of Missing Parts should have been matched up with the subject application and the Notice of Abandonment should not have been issued.

Accordingly, Applicants respectfully submit that the Notice of Abandonment dated October 6, 1998 should be withdrawn and the subject application should be restored to pending status.

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Applicants : Bruce D. Gaynor, et al.
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No fee is deemed necessary in connection with the filing of this Communication. If, however, any fee is required, authorization is hereby given to charge the amount of any such fee to Deposit Account No. 01-1785.

Respectfully submitted,

AMSTER, ROTHSTEIN & EBENSTEIN
Attorneys for Applicants
90 Park Avenue
New York, New York 10016
(212) 697-5995

Dated: September 17, 1999
New York, New York

By 
Alison R. Kelly
Prov. Registration No. P44,821



96700/451

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Bruce D. Gaynor, Betty A. Diamond,
Matthew D. Scharff and Philippe Valadon

Serial No. : ~~08/531,832~~ ^{833,838}

Filed : April 10, 1997

For : PEPTIDES FOR THE TREATMENT AND DIAGNOSIS
OF SYSTEMIC LUPUS ERYTHEMATOSUS

COMMUNICATION IN RESPONSE TO NOTICE
TO FILE MISSING PARTS OF APPLICATION

Assistant Commissioner of Patents
Washington, D.C. 20231

Sir:

I hereby certify that this correspondence is being
deposited with the United States Postal Service at
First Class Mail in an envelope addressed to:
Commissioner of Patents and Trademarks,
Washington, D.C. 20231 on the date which appears
below:

Heidi Renner
Signature
12/3/97
Date of Signature and Deposit

In response to the Notice to File Missing Parts of
Application dated October 6, 1997, copy attached, Applicants
enclose the following:

1. a copy of the October 6, 1997 Notice to File Missing
Parts;
2. an executed Declaration and Power of Attorney; and
3. a check in the amount of \$953.00 to cover the \$65.00
surcharge fee, the \$385.00 filing fee, and the \$503.00
claims fee, all for a small entity. Applicants' small
entity status was established in the parent application,
U.S. Serial No. 08/531,832, and is still applicable.

Adjustment date: 02/08/2000 MVILLARI
12/19/1997 NGORDON#800000058 08531832

01 FC:205 -65.00 OP
02 FC:201 -395.00 OP
03 FC:197 -493.00 OP

02/08/2000 MVILLARI 00000001 08833838

01 FC:201 385.00 OP
02 FC:202 360.00 OP
03 FC:203 143.00 OP
04 FC:205 65.00 OP

Applicants: Bruce D. Gaynor, Betty A. Diamond,
Matthew D. Scharff and Philippe Valadon
Serial No.: 08/833,838
Filed : April 10, 1997
Page 2

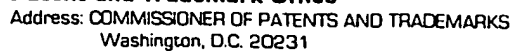
Authorization is hereby given to charge any deficiency or
credit any overpayment in the enclosed fees to Deposit Account No.
01-1785. A duplicate copy of this letter is enclosed.

Respectfully Submitted,

AMSTER, ROTHSTEIN & EBENSTEIN
Attorneys for Applicants
90 Park Avenue
New York, New York 10016
(212) 697-5995

Dated: December 3, 1997
New York, New York

By Elizabeth A. Bogosian
Elizabeth A. Bogosian
Registration No. 39,911

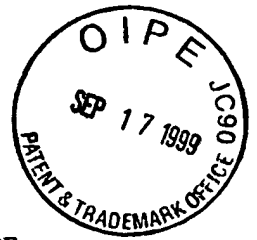


AMSTER POTTSSTEIN & EBENSTEIN
90 PARK AVENUE
NEW YORK NY 10016

DATE MAILED: 1819

96700/451

The stamp of the Patent Office Mail Room herein acknowledges the receipt of the above identified document on the date indicated by such stamp.



Inventors: Bruce D. Gaynor, et al.

Title: PEPTIDES FOR THE TREATMENT AND DIAGNOSIS OF
In re. SYSTEMIC LUPUS ERYTHEMATOSUS
(Applicant or Parties)

08/531,832

Atty: EAB / gr

(Serial No. or Proceeding No.)

Communication in Response to Notice to File Missing Parts (2 pages); executed Declaration and Power of Attorney (2 pages); check in the amount of \$953.00; and a First Class Certificate of Mailing stamp dated December 3, 1997.

AMSTER, ROTHSTEIN & EBENSTEIN
90 PARK AVENUE
NEW YORK, NEW YORK 10016

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210

No 38345

REMITTANCE ADVICE	

96700/451

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PAY
AMOUNT

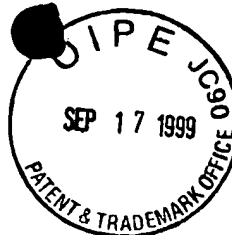
TO THE ORDER OF	DATE	DESCRIPTION	CHECK NO.	CHECK AMOUNT
Commissioner of Patents & Trademarks	12-3-97	96700/451	38345	953.00

[Signature]
AUTHORIZED SIGNATURE

THE CHASE MANHATTAN BANK, N.A. - 80 EAST 42nd STREET - NEW YORK, NEW YORK 10017

⑈038345⑈ ⑆021000021⑆ 007 1 263842⑈





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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Bruce D. Gaynor, Betty A. Diamond,
Matthew D. Scharff and Philippe Valadon

Serial No. : 08/531,832

Filed : April 10, 1997

For : PEPTIDES FOR THE TREATMENT AND DIAGNOSIS
OF SYSTEMIC LUPUS ERYTHEMATOSUS

COMMUNICATION REQUESTING WITHDRAWAL OF ERRONEOUSLY
ISSUED NOTICE OF ABANDONMENT

Honorable Commissioner of
Patents and Trademarks
Washington, D.C. 20231

Sir:

I hereby certify that this correspondence is being
deposited with the United States Postal Service
as First Class Mail in an envelope addressed to
the Assistant Commissioner for Patents,
Washington, D.C. 20231 on the date which
appears below:

Signature: Gina Penna

Date: 1/4/99

Applicants hereby submit this Communication in response
to the Notice of Abandonment dated October 6, 1998 which was
erroneously issued by the U.S. Patent and Trademark Office in
connection with the above-identified application. Applicants have
attached hereto as Exhibit A a copy of the October 6, 1998 Notice
of Abandonment.

In the October 6, 1998 Notice, the Examiner indicated
that the subject application is abandoned in view of applicants'
failure to respond to the October 6, 1997 Notice to File Missing
Parts.

Applicants: Bruce D. Gaynor, Betty A. Diamond,
Matthew D. Scharff and Philippe Valadon
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Accordingly, applicants would like to direct the Examiner's attention to the return postcard submitted with applicants' Communication in Response to Notice to File Missing Parts, a copy of which is attached hereto as Exhibit B. The return postcard indicates that the Communication, executed Declaration and Power of Attorney, and a check in the amount of \$953.00 were mailed to the U.S. Patent and Trademark Office on December 3, 1997 and received by the U.S. Patent and Trademark Office on December 8, 1997.

In view of the preceding remarks, applicants maintain that the October 6, 1997 Notice to File Missing Parts was timely responded to and was received by the U.S. Patent and Trademark Office. Accordingly, applicants respectfully request that the October 6, 1998 Notice of Abandonment be withdrawn and the application be restored to active status.

No fee is deemed necessary in connection with the filing of this Communication. If, however, any fee is required,

Applicants: Bruce D. Gaynor, Betty A. Diamond,
Matthew D. Scharff and Philippe Valadon
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Filed : April 10, 1997
Page 3



authorization is hereby given to charge the amount of any such fee
to Deposit Account No. 01-1785.

Respectfully Submitted,

AMSTER, ROTHSTEIN & EBENSTEIN
Attorneys for Applicants
90 Park Avenue
New York, New York 10016
(212) 697-5995

Dated: January 4, 1999
New York, New York

By Elizabeth A. Bogosian
Elizabeth A. Bogosian
Registration No. 39,911

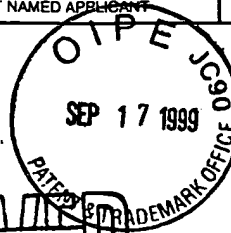


UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

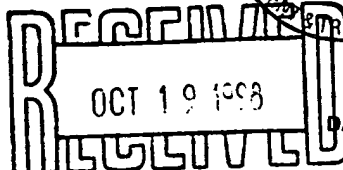
APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO./TITLE
08/803,829	04/10/97	GAYNOR	9 96700/451

AMSTER ROTHSTEIN & EBENSTEIN
90 PARK AVENUE
NEW YORK NY 10016

NM21/1006



NOT ASSIGNED



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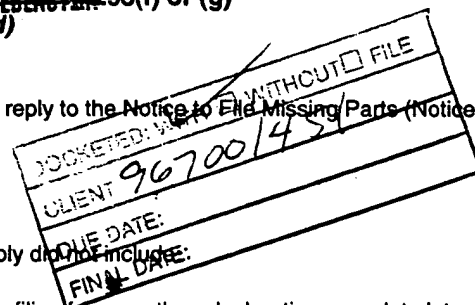
DATE MAILED:

10/06/98

NOTICE OF ABANDONMENT UNDER 35 U.S.C. 153(f) or (g)
(Filing Date Granted)

The above-identified application is abandoned for failure to timely or properly reply to the Notice to File Missing Parts (Notice) mailed on 10-06-97.

- ☒ No reply was received.
- ☐ The reply received on _____ was untimely.
- ☐ The reply received on _____ was improper. The reply did not include:
- ☒ 1. The surcharge under 37 CFR 1.16(e) required for filing the basic filing fee or oath or declaration on a date later than the filing date of a nonprovisional application.
- ☐ 2. The surcharge under 37 CFR 1.16(i) required for filing the basic filing fee or cover sheet on a date later than the filing date of a provisional application.
- ☒ 3. The full amount of the basic filing fee under 37 CFR 1.16 (a), (f), (g), (k).
(Note: A nonprovisional application may not be relied on for benefits under 35 U.S.C. 120 and 37 CFR 1.78 unless the processing and retention fee set forth in 37 CFR 1.21(l) is paid within the one year period set forth in 37 CFR 1.53(f). A provisional application may not be relied on for benefits under 35 U.S.C. 119(e) and 37 CFR 1.78 unless the basic filing fee is paid).
- ☐ 4. The oath or declaration of all the inventors required under 37 CFR 1.63 for this nonprovisional application.
- ☐ The letter of Express Abandonment filed on _____ is acknowledged; however, the application is abandoned for failure to timely or properly reply to the Notice as indicated above.

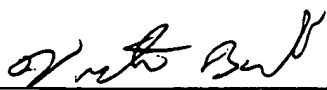


A petition to the Commissioner under 37 CFR 1.137 may be filed requesting that the application be revived.

Under 37 CFR 1.137(a), a petition requesting the application be revived on the grounds of **UNAVOIDABLE DELAY** must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied by: (1) a statement that the entire delay was unintentional; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(m); and (4) a terminal disclaimer if required by 37 CFR 1.137(c).

Under 37 CFR 1.137(b), a petition requesting the application be revived on the grounds of **UNINTENTIONAL DELAY** must be filed promptly after applicant becomes aware of the abandonment and such petition must be accompanied by: (1) a statement that the entire delay was unintentional; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(m); and (4) a terminal disclaimer if required by 37 CFR 1.137(c).

Any questions concerning petitions to revive should be directed to "Office of Petitions" at (703) 305-9282.


Customer Service Center
Initial Patent Examination Division (703) 308-1202



The stamp of the Patent/Trademark/Copyright Office Mail Room hereon acknowledges the receipt of the below-identified document(s) on the date indicated by such stamp.

Client/Matter No.: 96700/451 Exp. Mail No.: _____

Date Mailed: 1/4/99 Atty.: EAB Sec.: gr

In re: Inventors: Bruce D. Gaynor, Betty A. Diamond, Matthew D. Scharff and Philip Valadon

Title: PEPTIDES FOR THE TREATMENT AND DIAGNOSIS OF SYSTEMIC LUPUS ERYTHEMATOSUS

Serial No.: 08/531,832

Title of Document(s) Forwarded: Communication Requesting Withdrawal Of Erroneously Issued Notice of Abandonment; a copy of the October 6, 1998 Notice of Abandonment (Exhibit A); a copy of the return postcard submitted with applicants' Communication In Response to Notice to File Missing Parts (Exhibit B); and a First Class Certificate of Mailing Stamp dated January 4, 1999.

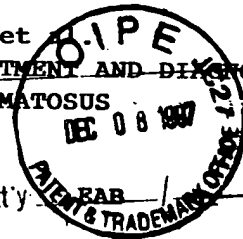


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Inventors: Bruce D. Gaynor, et al.

Title: PEPTIDES FOR THE TREATMENT AND DIAGNOSIS OF
In re. SYSTEMIC LUPUS ERYTHEMATOSUS
(Applicant or Parties)



08/531,832

Att'y

(Serial No. or Proceeding No.)

Communication in Response to Notice to File Missing Parts (2 pages); executed Declaration and Power of Attorney (2 pages); check in the amount of \$953.00; and a First Class Certificate of Mailing stamp dated December 3, 1997.

